

BROOKS, PIERCE, McLENDON, HUMPHREY & LEONARD, L.L.P.

ATTORNEYS AT LAW

RALEIGH, NORTH CAROLINA

MAILING ADDRESS
POST OFFICE BOX 1800
RALEIGH, N.C. 27602

OFFICE ADDRESS
1600 WACHOVIA CAPITOL CENTER
150 FAYETTEVILLE STREET MALL
RALEIGH, N.C. 27601

TELEPHONE (919) 839-0300
FACSIMILE (919) 839-0304

WWW.BROOKSPIERCE.COM

HENRY E. FRYE
OF COUNSEL

J. LEE LLOYD
SPECIAL COUNSEL

FOUNDED 1897

AUBREY L. BROOKS (1872-1958)
W.H. HOLDERNESS (1904-1965)
L.P. McLENDON (1890-1968)
KENNETH M. BRIM (1898-1974)
C.T. LEONARD, JR. (1929-1983)
CLAUDE C. PIERCE (1913-1988)
THORNTON H. BROOKS (1912-1968)
G. NEIL DANIELS (1911-1997)
HUBERT HUMPHREY (1928-2003)

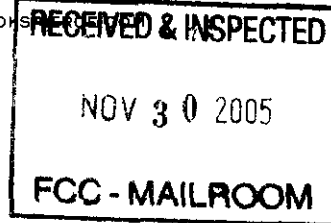
GREENSBORO OFFICE
2000 RENAISSANCE PLAZA
230 NORTH ELM STREET
GREENSBORO, N.C. 27401

WASHINGTON OFFICE
601 PENNSYLVANIA AVENUE, N.W.
SUITE 900, SOUTH BUILDING
WASHINGTON, D.C. 20004

WRITER'S DIRECT DIAL

L.P. McLENDON, JR.
EDGAR B. FISHER, JR.
W. ERWIN FULLER, JR.
JAMES T. WILLIAMS, JR.
WADE H. HARGROVE
M. DANIEL MCGINN
MICHAEL D. MEEKER
WILLIAM G. MCNAIRY
EDWARD C. WINSLOW III
HOWARD L. WILLIAMS
GEORGE W. HOUSE
WILLIAM P.H. CARY
REID L. PHILLIPS
ROBERT A. SINGER
JOHN H. SMALL
RANDALL A. UNDERWOOD
S. LEIGH RODENBOUGH IV
MARK J. PRAK
JILL R. WILSON
MARC D. BISHOP
JIM W. PHILLIPS, JR.
MACK SPERLING
JEFFREY E. OLEYNIK
MARK DAVIDSON
JOHN W. ORMAND III
ROBERT J. KING III
V. RANDALL TINSLEY
S. KYLE WOOSLEY
FORREST W. CAMPBELL, JR.
MARCUS W. TRATHEN
JEAN C. BROOKS
JAMES C. ADAMS II
ALLISON M. GRIMM
ELIZABETH S. BREWINGTON
H. ARTHUR BOLICK II
J. EDWIN TURLINGTON
JOHN M. CROSS, JR.

JENNIFER K. VAN ZANT
DAVID W. SAR
BRIAN J. MCMILLAN
NATALIE KAY SANDERS
DAVID KUSHNER
DEREK J. ALLEN
CLINTON R. PINYAN
TERESA DELOATCH BRYANT
COE W. RAMSEY
ROBERT W. SAUNDERS
ELIZABETH V. LAFOLLETTE
GINGER S. SHIELDS
JENNIFER T. HARROD
CHARLES E. COBLE
JOHN M. DEANGELIS
KATHRYN V. PURDOM
STEPHEN G. HARTZELL
JESSICA M. MARLIES
ANDREW J. HAILE
CHARLES F. MARSHALL III
J. BENJAMIN DAVIS
CAROLINE RITCHIE HEIL
KATHERINE A. MURPHY
SARA R. VIZITHUM
C. SCOTT MEYERS
JOHN S. BUFORD
NICOLE A. CRAWFORD
ALEXANDER ELKAN
C. ROBIN BRITT, JR.
PATRICK J. JOHNSON
KATHERINE J. CLAYTON
JENNIFER A. GALASSI
KATHLEEN A. GLEASON
JANICE L. KOPEC
SUSAN M. YOUNG
DARRELL A. FRUTH



November 29, 2005

Via Overnight Mail and ECFS

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
9300 East Hampton Drive
Capitol Heights, MD 20743

**Re: WSIL-DT, Harrisburg, IL
MB Docket No. 05-317
TELEVISION STATION SECTION 339(a)(2)(D)(vii) WAIVER REQUEST**

Dear Ms. Dortch:

On behalf of WSIL-TV, Inc. ("WSIL"), the permittee of Digital Television Station WSIL-DT, Harrisburg, IL, this letter requests a waiver to prohibit satellite subscribers from obtaining signal tests of WSIL-DT's digital signal pursuant to Section 339(a)(2)(D)(vii) of the Communications Act, as amended by the Satellite Home Viewer Extension and Reauthorization Act of 2004 ("SHVERA"). The instant request is filed pursuant to the procedures set forth in the Commission's Public Notice in DA 05-2979 (Nov. 17, 2005).

WSIL-DT is the ABC affiliate located in the Paducah-Cape Girardeau-Harrisburg Designated Market Area ("DMA"). The Paducah-Cape Girardeau-Harrisburg DMA is ranked 80th among Nielsen Media's 210 television markets for the 2005-2006 television season. WSIL-DT has received

a tentative digital channel designation of Channel 34, which is WSIL-DT's allotted digital channel. *See* Public Notice, DA 05-2649 (Oct. 4, 2005). Accordingly, absent grant of the instant waiver request, effective April 30, 2006, satellite subscribers may request a signal test to demonstrate eligibility under SHVERA to receive a distant digital signal of a station affiliated with the same network as WSIL-DT.

Pursuant to **Section 339(a)(2)(D)(viii)(IV)** of the Act, WSIL requests a waiver on the basis that WSIL-DT "experiences a substantial decrease in its digital signal coverage due to necessity of using [a] side-mounted antenna."

As certified in its Form 381 filing (FCC File No. BCERCT-20041105AIH), WSIL-DT intends to operate its post-transition DTV station based on its maximized facilities as authorized by its construction permit in FCC File No. BPCDT-19991019ABM. WSIL-DT is currently operating its DTV facility at maximum permissible power from a lower HAAT with a side-mounted antenna as authorized by Special Temporary Authority ("STA") in FCC File No. BDSTA-20020905ABU. As previously explained to the Commission in WSIL-DT's request for waiver of the maximization deadline filed on July 1, 2005, it is physically impossible for WSIL to construct its DTV top-mount maximized facility until its top-mount NTSC antenna is removed at the end of the DTV transition.

While WSIL-DT is currently operating its DTV facility at maximum permissible power from the HAAT and side-mounted antenna authorized in its STA, the present operation results in a substantial decrease in its digital signal coverage area compared to its future maximized facility. As previously submitted to the Commission, WSIL-DT's present STA operation is predicted to provide service to 657,433 people, while its future operation is predicted to provide service to 688,167 people. *See* WSIL Supplement to Maximization Waiver Request, Engineering Statement, MB Docket No. 03-15 (July 1, 2005).

Thus, absent grant of the instant waiver request to prevent signal testing under SHVERA, WSIL-DT is in jeopardy of losing service to 30,734 people who may otherwise be eligible to receive service from a distant network affiliate.

Furthermore, were WSIL-DT to proceed with construction of its maximized facility before the end of the DTV transition, WSIL would have to expend considerable resources to move its NTSC antenna to a lower level on the tower to make room for its DTV antenna. These costs, which would include the cost of purchasing an NTSC side-mount antenna, installation, and reworking the transmission line, would be "sunk costs" in equipment and labor that will only be useful until the DTV transition is complete. In addition, completion of WSIL-DT's maximization facility before the end of the DTV transition would require WSIL to lower WSIL's NTSC antenna, resulting in a loss of NTSC service to approximately 57,000 people. *See id.*

Accordingly, because WSIL-DT experiences a substantial decrease of 30,734 people in its

Ms. Marlene H. Dortch
November 29, 2005
Page 3

digital signal coverage area due to the present side-mount installation of its DTV antenna and because construction of its maximized facility prior to the end of the DTV transition would result in a substantial loss of NTSC service, WSIL-DT satisfies the waiver criterion of Section 339(a)(2)(D)(viii)(IV) of the Act.

For the reasons stated herein, WSIL requests a waiver to prohibit digital signal testing under SHVERA. If any questions should arise during the course of your consideration of this request, it is respectfully requested that you communicate with this office.

Sincerely,

BROOKS, PIERCE, McLENDON,
HUMPHREY & LEONARD, L.L.P.

A handwritten signature in black ink, appearing to read "David Kushner", with a long horizontal flourish extending to the right.

David Kushner
Coe W. Ramsey
Counsel to WSIL-TV, Inc.

cc: Via Hand-Delivery
Nazifa Sawez
Federal Communications Commission
Room 2-A726
445 12th Street, S.W.
Washington, DC 20554